

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

BAODING TIANWEI GROUP CO., LTD, a
foreign entity,

No. 3:07-cv-00862-HU

Plaintiff,

**OPINION AND
ORDER**

v.

PACIFICORP, an Oregon corporation,
Defendant.

PACIFICORP, an Oregon corporation,
Third-Party Plaintiff,

v.

WINBO INTERNATIONAL CORP., a
California corporation; SUPER
POWER EQUIPMENT CO., a California
corporation,

Third-Party Defendants.

SUPER POWER EQUIPMENT CO., a
California Corporation,

Counter-Claimant

v.

BAODING TIANWEI GROUP CO., LTD, a
foreign entity,

Counter-Defendant.

1 HUBEL, Magistrate Judge:

2 Pursuant to Federal Rule of Civil Procedure ("Rule") 55(a),
3 Plaintiff Baoding Tianwei Group Co. Ltd. ("Plaintiff") moves for an
4 order of default against Third-Party Defendants Winbo International
5 Corp. and Super Power Equipment Co. (collectively, "the Third-Party
6 Defendants") on Plaintiff's second amended counterclaims filed in
7 this action and served on the Third-Party Defendants on September
8 30, 2013.

9 It's evident that service was effected on the Third-Party
10 Defendants and they have failed to plead or otherwise defend. See
11 FED. R. CIV. P. 55(a) ("When a party against whom a judgment for
12 affirmative relief is sought has failed to plead or otherwise
13 defend, and that failure is shown by affidavit or otherwise, the
14 clerk must enter the party's default"); see also *Tiesing v. 357*
15 *Customs Inc.*, No. CIV S-07-0115, 2007 WL 4106985, at *1 (E.D. Cal.
16 Nov. 16, 2007) (entry of default is appropriate when the plaintiff
17 demonstrates, "by affidavit or otherwise," "that service was
18 effected on the defendant and that the defendant failed to respond
19 within the time specified by the [Rules].") The Court therefore
20 directs the Clerk to enter default under Rule 55(a) against the
21 Third-Party Defendants on Plaintiff's second amended counterclaims.

22 To the extent Plaintiff moves for a default judgment against
23 the Third-Party Defendants under Rule 55(b)(1), the Court declines
24 to do so because the claims do not appear to be for a sum certain
25 on this record. A prima facie hearing is scheduled for April 4,
26 2014, at 10:00 a.m., in courtroom 9B. The Clerk is directed to
27 notify the Third-Party Defendants' corporate representative, Lucy
28 Ni, about the upcoming hearing using the contact information listed

1 on the District of Oregon's electronic filing system, which was
2 provided by the Third-Party Defendants' former counsel during a
3 telephone hearing held on April 15, 2013.

4 Dated this 25th day of March, 2014.

5 /s/ Dennis J. Hubel

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DENNIS J. HUBEL
7 United States Magistrate Judge
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